

## **DRAFT**

### **520 CMR 5.00: AMUSEMENT DEVICES**

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#### **5.01: General Provisions**

(1) **Scope.** 520 CMR 5.00 is promulgated by the Department of Public Safety (Department) pursuant to authority granted by M.G.L. c. 140, § 205A. The purpose of 520 CMR 5.00 is to provide reasonable standards for the design, construction, inspection and operation of amusement rides for the safety of the public. 520 CMR 5.00 shall apply to amusement devices as defined by 520 CMR 5.01. 520 CMR 5.02, 5.04, 5.05, 5.07, and 5.08 shall not apply to inflatable devices as defined in 520 CMR 5.01. 520 CMR 5.00 shall not apply to:

- (a) A manually, mechanically or electrically operated, coin-operated ride, which is customarily placed, singly or in groups, in a public location and which does not normally require the supervision or services of an operator; or
- (b) A rider- or gravity-propelled ride that is not a mechanical device, or is not limited to a fixed or restricted course, and is not located in an amusement area or park.

Where there is a conflict between 520 CMR 5.00 and any referenced standard other than American Society for Testing and Materials (ASTM), 520 CMR 5.00 shall govern.

(2) **Definitions.** The following words and terms, when used in 520 CMR 5.00, shall have the following meanings unless the context clearly indicates otherwise or the term is redefined for a specific section or purpose.

**ACCT.** The Association for Challenge Course Technology.

Agreement of Non-disclosure. A document provided by and approved by the Criminal History Systems Board binding the executing parties to request, access and review criminal offender record information to the extent authorized by the Criminal History Systems Board and not to reveal, transmit or republish in whole or in part any information obtained as the result of a criminal offender records information report that would be in violation of M.G.L. c. 6, §§168 through 178B.

Amusement Device. A fixed or portable mechanical device similar to, but not limited to ferris wheels, carousals, rock walls, euro-bungee or similar devices, inclined railways or similar devices, including inflatables as well as amusement devices as defined by ASTM. Coin operated devices, skill games or playground equipments that have no mechanical devices are not within 520 CMR 5.01(2): Amusement Device. Go karts, concession go karts, and other mechanical devices that are confined to one path of travel shall be considered an amusement device per path of travel.

Amusement Park. A location that has 35 or more amusement devices that may be operated.

Amusement Park Operator. Any person, firm or corporation that owns, leases, manages or operates an amusement park.

Application. A standard form of application, issued by the Department, for a license to operate an amusement device as defined by 520 CMR 5.00.

A.N.S.I. American National Standards Institute.

Artificial Climbing Structure. A permanent belayed Challenge Course element located indoors or outdoors that simulates rock climbing and may be self-supporting or supported by an existing structure.

A.S.M.E. American Society of Mechanical Engineers.

ASTM. American Society for Testing and Materials International.

Automatic Mode. The ability, after initialization, of the amusement ride or device to start, operate, move, *etc.* with limited or no operator intervention.

A.W.S. American Welding Society.

Block System. A system on an amusement device with separate vehicles designed to limit the number of vehicles in a certain area of the ride.

Carnival. A mobile enterprise principally devoted to offering amusement or entertainment to the public in, upon, or by means of portable amusement rides or devices or temporary types of structures in any number or combination, whether or not associated with other structures or forms of public attraction.

CEN. European Committee for Standardization.

Certificate of Competency. A certificate issued to individuals pursuant to M.G.L. c. 146. § 62.

Certified Inflatable Device Mechanic. An individual designated by the owner of an inflatable device as the person responsible for overseeing the maintenance of an inflatable device and who has a valid NAARSO Level I or II certification, AIMS Level I or II maintenance certification or a person holding a B.S. in engineering with a minimum of three years experience in the amusement industry, or a person certified by the Department as an inflatable device mechanic in accordance with 520 CMR 5.09(1)(j).

Certified Inspector. A person who has obtained a Massachusetts Certificate of Competency to inspect amusement devices, and who is not an employee of the Department.

Certified Maintenance Mechanic. An individual designated by the owner of an amusement device as the person responsible for overseeing the maintenance of amusement devices and who has a valid NAARSO Level I or II certification, AIMS Level I or II maintenance certification or a person holding a B.S. in engineering with a minimum of three years experience in the amusement industry, or a person certified by the Department as a certified maintenance mechanic in accordance with 520 CMR 5.02.

Challenge Course. A facility or facilities consisting of one or more elements that challenge participants as part of a supervised educational/recreational curriculum, not located in an amusement park.

Challenge Course Element. An apparatus which may include but not be limited to, artificial climbing structures, beams, bridges, cable traverses, climbing walls, nets, platforms, ropes, swings, towers, or zip wires that employ fall protection systems in their operation. Elements may be installed on or in trees, poles, portable structures, buildings or be a part of a self-supporting structure.

Challenge Course Manager. A person who is at least 18 years of age and who has been trained by a Qualified Challenge Course Professional in accordance with ACCT or equivalent standards as approved by the Commissioner and primarily responsible for the day to day oversight, management and operation of the Challenge Course including but not limited to supervision and training of staff, routine maintenance and inspection of equipment and facilities and general record keeping.

Challenge Course Staff. A person who is at least 16 years of age who assists and works under the supervision of the Challenge course manager's direction. Such individuals shall include, but not be limited to, instructors, element facilitators, and

spotters.

Commissioner. The Commissioner of the Department of Public Safety.

Containment. The features in an amusement device which accommodate the patron for the purpose of riding the ride. This may include but is not limited to the seats, side walls, walls or bulkheads ahead of the rider(s), floors, objects within the vicinity of the rider(s), restraint systems and cages.

Criminal History Systems Board CORI Request Form. A form produced by the Criminal History Systems Board which, when executed by an applicant, grants authority to a Criminal History Systems Board-authorized party to access information regulated by the Criminal History Systems Board and maintained by the Board of Probation regarding the criminal history of the applicant within the Massachusetts Court system.

CWA. Climbing Wall Association.

Daily Maintenance Inspection Log. A form completed by the certified maintenance mechanic or the maintenance technician which details the results of the maintenance inspection.

Daily Operator's Inspection Log. A form completed by the ride operator which details the results of the operator's inspection.

Department. The Department of Public Safety.

Dynamic Belay System. A system of equipment established and/or operated by the Challenge Course Staff which provides adequate fall protection to a climber and which uses a rope and overhead anchor point to attach the climber to the belayer(s) who are responsible for providing adequate fall protection.

Element Number. An identifying number issued by the Department and associated with a specific element included on a challenge course site plan.

Employee CORI Reports. Documents generated as a result of the process of requesting, receiving, and evaluating criminal offender record information.

Employee Training Documentation. A form that details specific training received by operators of amusement devices.

Fastening Devices. Bolts, nuts, pins, clips or any other component that secures one part to another.

Fence. A type of barrier consisting of, but not limited to, posts, boards, wire, stakes, or rails, that is used to inhibit patrons from coming into undesirable contact with the

moving portion or restricted portion of an amusement ride or device.

First Aid. The one-time treatment or subsequent observation of scratches, cuts not requiring stitches, burns, splinters, contusions and minor complaints. For purposes of 520 CMR 5.00, "first aid" shall not include first response to a serious injury.

Fixed Amusement Device. An amusement device which stays at one location during the term of the licensed year.

Gate. A section of fencing that may be opened.

Hand Mode. The ability of the amusement ride or device to start, operate, move, etc. only with operator intervention.

Illness. Personal discomfort resulting in treatment including personal illness, food poisoning, drug abuse, toxic inhalation, insect stings or other similar occurrence.

Inflatable. A device of any size that incorporates a structural and mechanical system and employs a high strength fabric or film that achieves its strength, shape, and stability by tensioning from internal air pressure. This definition shall not include devices which are privately owned and/or operated or similar inflatable devices that are used for professional exhibition or stunt work, safety and rescue activities, aerial or aviation structures or devices, exhibit floats or similar inflatable devices.

Injury. Sustained bodily harm resulting in treatment such as trauma, cuts, bruises, burns, and sprains.

Injury and Incident Documentation. A form detailing all specific information regarding any injury or incident that may have occurred.

Itinerary. A form provided to the Department, by an owner which lists the locations and dates where the owner intends to use an amusement device, as well as the intended amusement devices to be used at that location.

Key Component. A component or system that has been designated by the manufacturer as requiring special fabrication, maintenance, inspection or operation due to its importance to the continued proper and safe operation of the amusement device.

Large Inflatable. An inflatable that has a surface that is designed to enable patrons to stand, sit or climb to a height of 12 feet or higher.

License. A certificate issued by the Department to an owner after the owner's application has been submitted to and approved by the Department.

Local Operating Procedures. Site specific information and procedures that are based

upon the Standard Operating Procedure and reviewed by the Certified Inspector which establish minimum acceptable criteria for all Challenge Course programming at the site. The documents shall define policies, procedures and practices and shall include, but not be limited to, appropriate operating procedures for specific activities or elements and care and use of equipment.

Low Element. A Challenge Course element or activity where participant is spotted if needed to limit risk, and where the use of a belay system is not required.

Latched. Held securely against opening except by intentional action of the rider, operator or other means.

Maintenance Technician. A person who is appropriately trained in the maintenance, repair, and upkeep of amusement devices and their components and has received training appropriate to their job function.

Maintenance Repair Log. A log completed by the certified maintenance mechanic or the maintenance technician which details all work performed on the amusement ride.

Major Modification. Any change in either the structural or operational characteristics of a ride which alters its performance from that specified in the manufacturer's design criteria.

Manufacturer. A person who has responsibility for the manufacture of any amusement device to be used or installed in the Commonwealth, or sold for use in the Commonwealth.

Manufacturer's Bulletins. Documents provided by the manufacturer to owners regarding alerts and maintenance modifications after an amusement device has been manufactured.

Manufacturer's Maintenance Manual. A document provided by the manufacturer that details the maintenance requirements and procedures of the amusement device.

Manufacturer's Operators Manual. A document provided by the manufacturer that details the operational requirements of an amusement device.

Manufacturer's Set up and Assembly Manual. A document provided by the manufacturer of an amusement device that details the requirements and procedures to properly erect the amusement device.

Mechanical Malfunction. Any breakdown that constitutes a failure of a load bearing element, mechanical or electrical failure of a drive or control system component or failure of a restraint system which materially compromises ride safety. Mechanical malfunction does not include a foreseeable malfunction that actuates a safety system.

Minor Modification. Any change that does not alter the structural or operational characteristics of the ride or change its performance from that specified in the manufacturer's design criteria.

Minor Injury/Illness. Injuries and illnesses which may or may not require emergency first aid or significant treatment, or both, but can not be otherwise classified as a serious injury or illness. This category includes incidents where treatment is limited to such things as the dispensation of over-the-counter medication or plastic adhesive strips, cleansing, rest, and other similar duties or assistance.

NDT "Non-destructive Testing". To examine and evaluate parts, areas, or items for defects at or below the surface.

NDT Statement. A non-destructive testing plan or a statement from the manufacturer that NDT is not required.

Operating Manual. The document that contains the required procedures and forms for the safe operation of an amusement device at the stated site.

Operator. *See* "ride operator"

Operator Assistant. A person 16 years of age or older whose duties include, but are not limited to, loading and unloading riders of amusement devices, including inflatable devices, collecting tickets, checking seatbelts, lap bars and other restraints and occupying the entrance or exit areas to prevent intrusion while the amusement device or the inflatable is in operation, but who is not the operator.

Operator Presence Device. A device which, when activated, requires an operator to remain in contact with the switch during the entire ride cycle.

Owner. A person who owns, leases, or manages the operations of amusement devices, including individuals, partnerships, and corporations.

Park. *See* "amusement park."

Parking Brakes. Brakes that are used to keep the amusement device from moving once the ride has stopped.

Participant. An individual who engages in activities on an element or in a group activity under the supervision of a Challenge Course Manager or Challenge Course Staff

Patron. *See* "rider".

Permit. A sticker with a number, assigned by the Department and adhered to the USID plate of an amusement device at the beginning of each amusement season. *See*

USID.

Portable Amusement Device. An amusement device which is transported to different locations within the term of the licensed year.

Primary Circulation Area. An area leading directly to the entrance or exit of a ride that is normally traveled by patrons. These areas would not include emergency exit routes, maintenance areas, or other areas not normally on the route of the patron.

Professional External Training. A course of instruction provided by a Qualified Challenge Course Professional in accordance with their recommendations and current ACCT Standards or the equivalent as approved by the Commissioner.

Qualified Challenge Course Professional. An individual within an organization that has been approved by the Commissioner who is trained in providing Challenge Course services including any one or combination of the following: design, installation, inspection and training services and who has been certified by the ACCT, or other equivalent organization, or is deemed otherwise qualified at the discretion of the Commissioner.

Reassembly. The installation, erection, or reconstruction of an amusement device following transportation or storage and prior to operation.

Records. Documents that an owner shall be in possession of, and must make available to inspectors of the Department upon request. Such documents shall include, but are not limited to:

- (a) Manufacturer's set up and assembly manual;
- (b) Manufacturer's maintenance manual;
- (c) Manufacturer's bulletins;
- (d) Manufacturer's operators manual;
- (e) Daily maintenance inspection logs (except for inflatables);
- (f) Daily operator inspection logs;
- (g) Maintenance repair logs;
- (h) Amusement incident reports;
- (i) Local operating procedures; and
- (j) Challenge course site plans.

Reduction Brakes. Brakes designed to slow the motion of the amusement device.

Redundant Restraint Devices. Independent restraints in the sense that the secondary device, for example, lap bar, containment enclosure, is able to restrain the patron in case of failure of the primary restraint.

Renter. An individual who executes a contract with the owner of an inflatable device for the temporary use of the device.



Repair. To restore an amusement device component with like components or materials that meet or exceed current design specifications for the amusement device.

Restraint. The system, device or characteristic that is intended to inhibit or restrict the movement of the patron(s).

Retarding Brakes. A device that prevents the ride from exceeding a determined speed by means of friction or induction magnets.

Ride. See "amusement device".

Ride Operator. Any person 18 years of age or older, engaged in or directly controlling the operations of an amusement device, including inflatable devices.

Rider. A person riding on or utilizing an amusement device, including inflatable devices.

Safety Bulletin. A supplemental notification delivered by the manufacturer to an owner that contains new information or new recommendations for inspections, testing, repair, operation or training. This term includes, but is not limited to, Safety Alerts, Service Bulletins, and Notifications as indicated in ASTM F-853.

Serious Injury/Illness. A personal injury/illness that results in death, dismemberment, significant disfigurement, permanent loss of the use of a body organ, member, function, or system, a compound fracture, or other significant injury/illness that requires immediate admission and overnight hospitalization and observation by a licensed physician.

Site Plan. A document which includes a digital photograph of each challenge course element, its corresponding element number and their approximate location in a specified course or facility.

Small Inflatable. An inflatable that has a surface that is designed to enable patrons to stand, sit or climb at a height of less than 12 feet.

Sport Climbing Gym. A privately owned facility or site that operates primarily for the purpose of providing recreational or athletic activities on an artificial climbing structure that incorporates climbing and belaying.

Standard Operating Procedure A document approved by the Qualified Challenge Course Professional that establishes general minimum acceptable standards for safety for Challenge Course programming in accordance with ACCT or equivalent standards as approved by the Commissioner and which are not designed for site specific individual Challenge Course programs.

Staff Training Plan. A written document that establishes the technical skills

individual Challenge Course Staff and Challenge Course Managers are required to demonstrate prior to being allowed to operate challenge course elements safely. The staff training plan shall be created by the challenge course owner and approved by a Qualified Challenge Course Professional and shall at a minimum adhere to training standards of safety set forth within the ACCT or equivalent standards as approved by the Commissioner.

State Inspector. An inspector of the Department of Public Safety assigned by the Commissioner, who has been trained by the Department in the inspection of amusement devices to ensure compliance with ASTM standards and 520 CMR 5.00.

Static Belay System. A system of equipment established and/or operated by the Challenge Course Staff which provides adequate fall protection to a climber and uses a safety lanyard that attaches the climber to an appropriate anchor point, such as a belay cable or an eyebolt

Trailer Mounted Kiddie Ride. An amusement device designed primarily for use by children up to 12 years of age which is mounted on a trailer and is designated as a kiddie ride by the manufacturer.

Traveler. A binder or electronic file in a universally accepted format that travels with the amusement device and which shall contain the records and state or certified inspection reports performed on the ride for the past 30 days.

Trim Brakes. See “retarding brakes”

USID Number. A unique identifying number assigned to each ride by a state entity at the time the first permit is issued.

(3) Standards Adopted. The standards listed below are adopted and incorporated as part of 520 CMR 5.00. In the event that any provision in any of the following standards, other than ASTM, conflicts with a provision of 520 CMR 5.00, 520 CMR 5.00 shall govern.

ACCT 6th Edition (Specific Name of Doc?)

ASTM F698-94 Standard Specification for Physical Information to be Provided for Amusement Rides and Devices

ASTM F747-97 Standard Terminology Relating to Amusement Rides and Devices

ASTM F770-93(2000) Standard Practice for Operation Procedures for Amusement Rides and Devices

ASTM F846-92(2003) Standard Guide for Testing Performance of Amusement Rides and Devices

ASTM F853-04 Standard Practice for Maintenance Procedures for Amusement Rides and Devices

ASTM F893-87(2004) Standard Guide for Inspection of Amusement Rides and Devices

ASTM F1159-03 Standard Practice for the Design and Manufacture of Amusement Rides and Devices

ASTM F1305-94(2002) Standard Guide for the Classification of Amusement Ride and Device Related Injuries and Illnesses

ASTM F1193-04 Standard Practice for an Amusement Ride and Device Manufacturer Quality Assurance Program

ASTM F1950-99 Standard Specification for Physical Information to be transferred with used amusement rides and devices

ASTM F2007-00 Standard Practice for the Classification, Design, Manufacturer, and Operation of Concession Go-Karts and Facilities

ASTM – F2374-04 Inflatable devices

ASTM – F2137-01 Measuring Dynamics

ASTM – F2291-04 Practice for design of amusement rides

ASTM – F1957-99 Test method for composite foam hardness

ASTM-F1773-97 Standard Terminology Relating to Climbing and Mountaineering Equipment and Practices.

CEN-12572 1998 Artificial Climbing Structures: Protection Points, Stability Requirements and Test Methods

CEN-566 1997 Mountaineering equipment. Slings. Safety requirements and test methods.

CEN-12275 1998 Mountaineering equipment. Connectors. Safety requirements and test methods.

CEN-12277 1998 Mountaineering equipment. Harnesses. Safety requirements and test methods.

CEN 892: 2004 Mountaineering equipment. Dynamic mountaineering ropes. Safety requirements and test methods.

These standards are on file with the Secretary of State and are incorporated by reference in the 520 CMR 5.00.

The following standards are adopted herein and are available from the National Fire Protection Association:

NFPA 10 1998, "Portable Fire Extinguishers"; and

NFPA 70 2005, "National Electrical Code".

#### 5.02: General Administrative Provisions

(1) Scope. 520 CMR 5.02 establishes general administrative provisions including license and permit issuance, fees, inspections, and variances for all amusement devices other than inflatables, challenge courses and artificial climbing structures.

#### 5.14: Challenge Courses

##### (1) General Administrative Procedures

(a) Scope. 520 CMR 5.14 establishes the general administrative provisions including license and permit issuance, fees, and inspections for Challenge Courses. This regulation shall apply to Challenge Courses not located in amusement venues or used on mobile climbing structures. The regulation shall not apply to Challenge Courses having only low elements.

##### (b) Issuance of Annual License and Permits Denials; Appeals

1. No person shall manufacture or sell for use in the Commonwealth, operate, arrange for, or cause to be used, any Challenge Course that is not in compliance with these regulations.

2. Prior to any Challenge Course owner being licensed to operate in the Commonwealth, the owner shall provide the following documents to the Department:

- a. Completed application as provided by the Department;
- b. Certified Inspector's report;
- c. Certificate of insurance demonstrating compliance with M.G.L. 140, § 205A, and 520 CMR 5.14;
- d. The name of the designated Challenge Course Manager;
- e. A list of the Challenge Course Staff trained in compliance with the specifications of the Qualified Challenge Course Professional .

- f. The Staff Training Plan;
- g. A completed Criminal Offender Record Information (CORI) Request Form ; and
- h. A pre-employment criminal history inquiry procedure in accordance with 520 CMR 5.02.5(g) (1)(c)

3. The owner shall apply for an annual license at least ten days prior to commencing operations or expiration of the annual license on a form supplied by the Department.

4. Licensure shall be conditioned upon the completion of a CORI inquiry by the Department pursuant to authorization granted by the CHSB in accordance with M.G.L. c. 6, §172(b) and (c) and in accordance with the Department's guidelines for evaluating CORI reports.

5. Upon approval, the Department shall issue a license to the owner to operate in the Commonwealth. The Department shall assign a state identification number for each challenge course.

6. No Challenge Course element shall be operated without a valid annual license.

7. Denial; appeals

- a. The Commissioner may refuse to issue a license to an applicant based on the following grounds:
  - i. Submittal of an incomplete application or submittal of an application on a form not authorized by the Department.
  - ii. Failure to submit a Pre-employment CORI Inquiry procedure.
  - iii. Failure to submit required fees.
  - iv. Knowingly submitting false, invalid, incorrect or fraudulent information.
  - v. Failure to submit a CORI Request Form;
  - vi. If at the time of application, the applicant is under investigation by the Department or other law enforcement agency in connection with the operation of Challenge Course elements.
  - vii. If the Commissioner finds that the applicant does not possess the integrity and general fitness to operate Challenge Course elements in a safe manner and in the interest consistent with 520 CMR 5.00 or M.G.L. c.140, §205A.

8. If the Commissioner refuses to issue a license, he shall notify the applicant in writing, setting forth the reasons for the denial. Within 21 days of receipt of the denial, the applicant may make written demand upon the Commissioner for a hearing before the Commissioner or his designee to determine the reasonableness of the Commissioner's action. The hearing shall be held promptly and in accordance with M.G.L. c. 30A and 801 CMR 1.02.

9. If, after a hearing, the Commissioner denies the issuance of the license, he shall notify the applicant in writing. Such notice shall be sent by certified first class mail and shall contain the reasons supporting the denial. Within 30 days after receipt of the notice, the applicant may appeal such denial to Superior Court in accordance with M.G.L. c. 30A, §14.

(c) Fees. A fee shall be paid by the applicant for each Challenge Course in accordance with the fee schedule as set forth in 801 CMR 4.02.

(d) Insurance Requirements

1. The owner of a Challenge Course shall furnish proof of financial responsibility to satisfy claims for damages on account of any physical injury or property damage suffered by any person by way of commercial general liability insurance, or pecuniary equivalent as approved by the Commissioner, in the minimum amount of \$1,000,000 per occurrence limit with a \$2,000,000 general aggregate limit, or the statutory limit, written on an occurrence form.

2. Certified Inspectors shall also furnish proof of general liability insurance in the minimum amount of \$1,000,000 per occurrence limit written on an occurrence form.

(e) State Identification Numbers

1. Each Challenge Course shall be identified using a number issued by the Department and posted on each course.

2. When a Challenge Course is approved, the Department shall assign a USID number to each course to identify to the public that the challenge course conforms the requirements for licensing.

3. New Challenge Courses that do not have a Department-issued number shall receive such number upon application for the annual license along with other documentation required by 520 CMR 5.00.

4. The challenge course USID number shall be visibly displayed at the site of the course.

(f) Inspector and Police Admission to Grounds. As a condition of the license, owners shall grant unlimited access to any law enforcement officers, fire officials or inspector(s) of the Department to the grounds, elements and structures covered by 520 CMR 5.14 in the performance of their duties.

(g) Inspection by the Certified Inspector

1. Inspection by the Certified Inspector

- a. All Challenge Course elements and equipment shall be inspected by a Certified Inspector in accordance with the ACCT Standards, CEN Standards, or equivalent standards as approved by the Commissioner prior to being allowed to operate in the Commonwealth.
- b. The Certified Inspector shall review maintenance records for the elements from the previous year and ensure that all required corrective actions and manufacturer specified repairs/modifications/upkeep requirements have been implemented.
- c. The Certified Inspector shall review the Local Operating Procedures to ensure that it is in compliance with ACCT Standards, CEN Standards, or equivalent standards as approved by the Commissioner and based upon the Standard Operating Procedure.
- d. Upon completion of the inspection, the Certified Inspector shall document any and all findings that require attention, as well as any areas that are of concern for further observation. This information shall be presented in a report to the owner in accordance with the ACCT Challenge Course Inspection Standards, CEN Standards, or equivalent standards as approved by the Commissioner.
- e. Issues directly affecting the safety and integrity of the element, equipment shall be appropriately corrected before the element or equipment is certified by the Certified Inspector.
- f. The owner shall submit the Certified Inspector's report to the Department along with a completed *Challenge Course Inspection Summary* form provided by the Department. This form shall:
  - i. Identify items found to be out of compliance;
  - ii. Document a review of the following records:
    - a. Specialty inspection reports;
    - b. Maintenance logs;
    - c. Staff training plan;
    - d. Staff training logs.
  - iii. Identify corrective action requirements, if any; and
  - iv. State the name and the Massachusetts Certificate of Competency License Number of the certified inspector printed legibly.

(h) Acceptance Inspection by the Certified Inspector. An acceptance inspection shall be performed by a Certified Inspector on all newly installed Challenge Course elements in the Commonwealth. The acceptance inspection shall be done in accordance with the requirements of 520 CMR 5.14(1)(g)(1) before the element may be operated.

(i) Inspection by the State Inspector

1. All Challenge Course elements or the equipment associated with such devices may be inspected by a State Inspector.

2. A general inspection by the State Inspector of all Challenge Course elements and equipment shall include the following:

- a. A review of the maintenance records for the past 30 days, including daily maintenance logs;
- b. A review of the daily operator logs;
- c. A review of the operator training records and operator identifications;
- d. A visual inspection of the device or structure; and
- e. A review of the Certified Inspector's report.

3. The State Inspector shall document any issues of concern and immediately notify the owner or his representative of such concerns. Issues directly affecting the safety and integrity of the element shall be immediately addressed. The state inspector shall not certify an element until the issues have been appropriately abated. Upon completion of the inspection, the state inspector shall provide the owner or his representative with a written inspection report.

4. Preparation for State Inspection

- a. The owner shall ensure that the Challenge Course element and associated equipment is ready for the state inspection at the scheduled time.
- b. If the Challenge Course element and associated equipment is not available at the time of the scheduled state inspection, it shall be deemed to have failed the inspection.
- c. The element shall not operate until all violations have been resolved to the satisfaction of the State Inspector.
- d. The owner or his designee shall be available to the State Inspector during the inspection.

5. Variance

- a. If the owner believes that full compliance with 520 CMR 5.14 is overly burdensome, they may apply to the Commissioner for a variance from 520 CMR 5.14. The burden is on the applicant to demonstrate in writing to the Department that the granting of the variance would not compromise public safety or otherwise undermine the purpose of 520 CMR 5.14. Application for a variance shall be made on a form provided by the Department for this purpose shall contain such information as is required by the Department, and shall be signed by the applicant.
- b. Upon receipt of an application for a variance, the Commissioner, or his designee may:
  - i. Grant the application with whatever conditions are deemed appropriate.
  - ii. Deny the application without a hearing.
  - iii. Any person aggrieved by this decision may file a request for an



adjudicatory hearing with the Department within 30 days of receipt of the decision. All adjudicatory hearings shall be held in accordance with the provisions of M.G.L. c. 30A and 801 CMR 1.02. Any person aggrieved by a decision made after a hearing may appeal to the Superior Court in accordance with M.G.L. c. 30A, §14.

(2) Owner Responsibility.

(a) Scope. 520 CMR 5.14(5) establishes the responsibilities of owners of challenge courses regarding the safe operation and maintenance of such courses.

(b) Local Operating Procedures Manual. The owner shall be responsible for ensuring that each Challenge Course site has a Local Operating Procedure (LOP) Manual which is based on a Standard Operating Procedure that has been approved by the Qualified Challenge Course Professional and includes a list of items that shall be checked by the Challenge Course Staff before each day's use of the element. The manual shall be kept at the site of the Challenge Course and shall be made available to the Certified and State Inspectors during inspection visits.

(c) Challenge Courses

1. The owner shall not install, operate, or allow to be operated, any challenge course that does not have a valid license, or any element that does not have valid element number issued pursuant to 520 CMR 5.14.
2. Existing equipment shall be maintained in accordance with 520 CMR 5.14.
3. Climbing equipment used in life support applications associated with the Challenge Course shall be secured from unauthorized use.

(d) Records.

1. Copies of all manufacturer's corrective actions or recommendations received by the owner shall be forwarded to the Department within 14 days of receipt.
2. Local Operating Procedure manuals for all challenge course elements shall be kept with the owner at a designated location and shall be available to the Department and certified insurance inspector upon request.
3. A record of all maintenance, inspections and tests for all elements shall be documented immediately upon completion of the test, inspections and maintenance performed, and shall be available to the Department for one year. After one year, such records shall be maintained by the owner. Challenge Course records may be stored off site for the life of the device
4. The owner shall provide a Staff Training Plan to the Department at the time of application, a copy of which shall also be kept on site. Documentation of training performed in accordance with the Staff Training Plan shall be maintained by the owner and shall include documentation of training provided by the Qualified Challenge Course professional or Qualified Manufacturer's Representative.

5. The owner shall provide a Challenge Course site plan to the Department at the time of application, a copy of which shall also be kept on site.

(e) Maintenance Repair Log. The maintenance repair log shall be signed by the Challenge Course Manager. The maintenance repair log shall include:

1. The name of the element on which maintenance was performed;
2. The legible name and signature of the person who performed the maintenance;
3. Details of any repairs performed;

(f) Daily Inspection Log.

1. The daily inspection shall be performed by the Challenge Course Manager for each day before allowing patrons on an element for the day. The Inspection log shall include:
  - a. The name of the element being inspected;
  - b. The legible name and signature of person completing the log;
  - c. The date of the inspection;
  - d. A detailed list and description of all items being checked.

(g) Itinerary.

1. At least two business days prior to the first date of intended operation of a challenge course element, the owner shall submit a complete itinerary to the Department on the form provided by the Department for this purposes. The itinerary shall:
  - a. Be in writing;
  - b. Identify the intended device by the USID number;
  - c. Include requested time and date of inspection;
  - d. State the date the element is scheduled to begin operation;
  - e. State the specific locations of use including the municipality, street and street number or block and lot.
2. Owners shall not set up at a location unless they have submitted a proper itinerary for that location. Owners shall not rely on or use itineraries of other companies in order to set up at a location. Each owner is responsible for submitting a proper and timely itinerary for its elements.

(h) Pre-employment Criminal History Inquiries.

1. All Owners shall submit for the Department's approval, a pre-employment criminal history inquiry procedure as a condition of their license. At a minimum, the procedure must include the following provisions:
  - a. The owner will conduct criminal history inquiries of all individuals

seeking employment for the positions of Challenge Course Managers pursuant to M.G.L. c. 6, §172(c).

b. The owner will make all reasonable efforts to complete the inquiry prior to making an offer of employment for these positions.

c. The owner may offer provisional employment to an applicant not to exceed a period of 14 days, provided that the criminal history inquiry has been initiated and that the provisional employee is at all times under the direct supervision of an employee for whom a criminal history inquiry has been completed.

d. The owner will require that each applicant for employment for these positions

i. Consents to a CORI inquiry on a form provided by the CHSB as part of his or her application for employment; or

ii. Provides the owner with a current CORI report generated by CHSB where the applicant is already subject to CORI inquiries as a requirement for employment.

e. The owner will inform the applicant that the CORI may be utilized by the owner in the determination of suitability for employment. The Department may periodically review the records of CORI inquiry requests made by owners to ensure compliance with M.G.L. c. 6, §§ 168 through 175.

2. Owners may collect additional criminal offender information on employees for these positions provided that such information is lawfully obtained and that the procedure to collect such information is submitted to and approved by the Department prior to licensure of the owner.

(i) Challenge Course Staff.

1. The owner shall provide Staff for all challenge course elements.

2. Qualifications.

a. Challenge Course Staff shall be at least 16 years of age.

b. Challenge Course shall not instruct on any challenge course element while under the influence of drugs or alcohol.

c. Challenge Course Staff shall have complete knowledge of the operation of the element.

3. Training. The owner shall properly train all Challenge Course Staff to operate the element based on manufacturer's requirements covered by the operational manual and any supplemental corrective actions or other documents provided by the manufacturer.

4. The owner shall ensure that each member of the Challenge Course Staff:

a. Has read and understood the manufacturer's recommendations for the operation of the element and, if applicable, any operations manual provided by the owner;

b. Knows the safety-based limitations, including height, weight or other participant requirements regarding who may use the device;

c. Is knowledgeable on emergency procedures;

5. The owner shall ensure that the Challenge Course Staff is monitoring the element and the activities within the element anytime a participant is entering, inside or exiting the structure. Such staff shall ensure that the number of participants on the structure does not exceed the manufacturer's or Qualified Challenge Course Professional's recommendations. To ensure public safety, the staff shall reserve the exclusive right to limit the number of patrons on the element and to order participants off of the element. In the event of injury, the staff shall immediately order all participants off of the element and shall ensure that the appropriate medical attention is given for those injured.

(j) Serious Injury/Investigation.

1. Notification. Any serious injury or mechanical malfunction which occurs on an element shall be reported to the Department within one hour of the serious injury. The element shall not be moved from the site of the serious injury until approval is granted by a state inspector. The only exceptions to 520 CMR 5.14(2)(j) is for preservation of life and property, the removal of injured persons or bodies, or to permit the flow of traffic. The challenge course element and area surrounding the device shall not be disturbed, cleaned, or altered in any way that will impede the investigation.

2. Investigation.

a. In the event that a serious injury occurs on an element or any of its component systems, the element shall be immediately shut down and secured until a state inspector has completed an investigation. No person shall move or alter the serious injury incident scene, the element, or structure, except to remove the victim(s), until the state inspector has determined that the device is safe. If a serious injury incident occurs on an element as the result of the malfunction of the element or a serious injury results in major damage to the element or structure, or any of its component systems, the incident shall be reported to the State Police within one (1) hour and a report shall be submitted to the Department within 48 hours as required under M.G.L. c. 140, § 205A.

(k) Transfer of Ownership. Upon the transfer of ownership of any challenge course element the owner of the device being transferred shall notify the Department in writing of the transfer, and shall transfer all records pertaining to that challenge course element to the new owner. The new owner shall obtain a new license and permit prior to operating the challenge course element.

(3) Manufacturer Responsibility

(a) Scope. 520 CMR 5.14(6) establishes the responsibilities of the manufacturer of Challenge Courses for operation in the Commonwealth.

(b) All challenge courses shall comply with the standard set forth in the ACCT 6th

Edition, the CEN standards, or equivalent standards as approved by the Commissioner.

(c) Notification, Corrective Actions and Other Information as Required by the Department.

1. When the manufacturer is notified by an owner of an incident involving a serious injury or a critical structural or mechanical component of an element the manufacturer shall promptly evaluate the information in that notification and, if necessary, provide, in the form of a corrective action, the results of that evaluation, together with any recommendations to eliminate or prevent the situation that created the incident, to the Department and to all known owners of the challenge courses in the Commonwealth.
2. The manufacturer of an element shall also provide to the Department and to all known owners of the element in the Commonwealth:
  - a. All bulletins, corrective actions and notifications on challenge course elements;
  - b. Information as necessary for those elements that have individual approval or supplemental modification certification based on the manufacturer's documentation supplied by the owner or responsible person; and

(d) Departmental Remedies for Non-compliant Manufacturers. The Department shall have the authority to prohibit the use of any challenge course element in the Commonwealth until such time that the manufacturer has:

1. Submitted to the Department all safety bulletins issued on the element or as well as all operational and maintenance manuals for the element; and
2. Complied with any orders imposed by the Department in order to bring the element into compliance with 520 CMR 5.14.

